

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Kern Oil & Refining Company
Attn: Jerry L. Frost
7724 E. Panama Lane
Bakersfield, California 93307-9210

Docket HWCA 20081772

CONSENT ORDER

Health and Safety Code
Section 25187

ID No. CAD990724916

Respondent.

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and Kern Oil & Refining Company (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and offers for transportation hazardous waste at 7724 E. Panama Lane, Bakersfield, California (Site).

1.3. Inspection. The Department inspected the Site on March 5-6, 20, 2008.

1.4. Authorization Status. Respondent operates as a generator of hazardous waste under EPA identification number CAD990724916 and submitted a Hazardous Materials Business Plan to the Kern County Environmental Health Department on March 2008.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of

the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1 Respondent violated California Code of Regulations, Title 22, section 66265.52(c) and 66265.37 in that on or about March 5-6, 20, 2008, the Respondent failed to provide documentation or letters of arrangements agreed to by state and local authorities and hospitals.

2.1.2. Respondent violated California Code of Regulations, Title 22, section 66262.40(a) in that on or about March 5-6, 20, 2008, the Respondent failed to provide and have available manifests for DTSC personnel to review. The hazardous waste manifests for the year 2005 and 2006 were unavailable for review.

3. SCHEDULE FOR COMPLIANCE

3.1 Respondent shall correct the violations set forth above.

3.1.1 The Respondent shall immediately place in the written contingency plan documentation or letters of arrangements agreed to by state and local authorities and hospitals and provide copies of those agreements to the Department within 20 days of the effective date of this Consent Order.

3.1.2. The Respondent shall immediately maintain copies of each manifest signed in accordance with the California Code of Regulations, Title 22, section 66262.23(a) for three years from the date the waste was accepted by the initial transporter as required. The Respondent shall make hazardous waste manifests available for Department personnel to review upon request during any inspection pursuant to California Health and Safety Code, Chapter 6.5, section 25185.

3.1.3. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$3,000.00.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Mr. Dale Hoverman, Unit Chief
Enforcement and Emergency Response Program
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, California 93611

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: 8/6/08

Bruce W. Cogswell
Respondent

Dated: 8/9/08

Dale E. Hoverman

Department of Toxic Substances Control